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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 JOHN PETTITT, MURPHY LABRADOR
14 CORPORATION, MAX GSD TRUST OF 1996 BY
15 BARBARA MUSSER, TRUSTEE,

16 Plaintiffs,

17 v.
18 JOHN CHIANG, individually and in his capacity as
19 STATE CONTROLLER OF THE STATE OF
CALIFORNIA,

Defendant.

CV 07-5854 CW

NOTICE OF MOTION AND
MOTION TO DISMISS FIRST
AMENDED COMPLAINT
(Fed. R. Civ. P. 12(b)(6))

Hearing: April 24, 2008
Time: 2 p.m.
Department: 2, Fourth Floor
Judge: The Honorable
Claudia Wilken

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22 To Plaintiffs John Pettitt, Murphy Labrador Corporation and Max GSD Trust of 1996
23 by Barbara Musser, Trustee, PLEASE TAKE NOTICE THAT on April 24, 2008 at 2 p.m. in
24 Department 2, Fourth Floor, 1301 Clay Street, Oakland, California, Defendant John Chiang,
25 individually and in his capacity as the Controller of the State of California, will and does move
26 this Court for an order dismissing the First Amended Complaint in this action. This motion is
27 based upon the pleadings and papers on file in this action, this Notice of Motion and Motion, the
28 accompanying Memorandum of Points and Authorities in Support of Motion, and whatever

1 evidence and argument is presented at the hearing of this motion.

2 The grounds for the motion are that the complaint contains claims which are untimely
3 or are barred by the Eleventh Amendment.

4 Dated: March 7, 2008

5 Respectfully submitted,

6 EDMUND G. BROWN JR.
Attorney General of the State of California

7 CHRISTOPHER E. KRUEGER
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10 /s/ Ross C. Moody

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